

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

AMMIZABAD JOHNSON,

Plaintiff,

v.

ST. LOUIS CITY JUSTICE CENTER  
DEPARTMENT,

Defendant.

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No. 4:21-CV-733-NCC

**MEMORANDUM AND ORDER**

This matter is before the Court on the application of self-represented plaintiff Ammizabad Johnson, an incarcerated person at the St. Louis City Justice Center, to proceed in the district court without prepaying fees or costs. Having reviewed the motion and the financial information submitted in support, the Court will grant the motion, and assess an initial partial filing fee of \$1.00. Additionally, for the reasons discussed below, the Court will allow plaintiff to file an amended complaint.

**Initial Partial Filing Fee**

Pursuant to 28 U.S.C. § 1915(b)(1), a prisoner bringing a civil action *in forma pauperis* is required to pay the full amount of the filing fee. If the prisoner has insufficient funds in his prison account to pay the entire fee, the Court must assess and, when funds exist, collect an initial partial filing fee of 20 percent of the greater of (1) the average monthly deposits in the prisoner's account, or (2) the average monthly balance in the prisoner's account for the prior six-month period. After payment of the initial partial filing fee, the prisoner is required to make monthly payments of 20 percent of the preceding month's income credited to his account. 28 U.S.C. § 1915(b)(2). The agency having custody of the prisoner will forward these monthly

payments to the Clerk of Court each time the amount in the account exceeds \$10.00, until the filing fee is fully paid. *Id.*

Plaintiff did not submit a certified copy of his inmate account statement for the six months preceding the filing of his complaint, but based upon the information included in plaintiff's application, the Court will assess an initial partial filing fee of \$1.00. This amount is reasonable based upon the information before the Court. *See Henderson v. Norris*, 129 F.3d 481, 484 (8th Cir. 1997) (when a prisoner is unable to provide the Court with a certified copy of his prison account statement, the Court should assess an amount "that is reasonable, based on whatever information the court has about the prisoner's finances.").

### **Legal Standard on Initial Review**

This Court is required to review complaint filed *in forma pauperis*, and must dismiss it if it is frivolous, malicious, or fails to state a claim upon which relief may be granted. 28 U.S.C. § 1915(e)(2). An action is frivolous if it "lacks an arguable basis in either law or fact." *Neitzke v. Williams*, 490 U.S. 319, 328 (1989). An action fails to state a claim upon which relief may be granted if it does not plead "enough facts to state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

A claim is facially plausible when the plaintiff "pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Although a plaintiff need not allege facts in painstaking detail, the facts alleged "must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555. This standard "demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation." *Iqbal*, 556 U.S. at 678. Determining whether a complaint states a plausible claim for relief is a context-specific task that requires the reviewing court to draw upon judicial experience and common sense. *Id.* at 679. The court must

assume the veracity of well-pleaded facts, but need not accept as true “[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* at 678 (citing *Twombly*, 550 U.S. at 555).

This Court must liberally construe complaints filed by laypeople. *Estelle v. Gamble*, 429 U.S. 97, 106 (1976). This means that “if the essence of an allegation is discernible,” the court should “construe the complaint in a way that permits the layperson’s claim to be considered within the proper legal framework.” *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (quoting *Stone v. Harry*, 364 F.3d 912, 914 (8th Cir. 2004)). However, even *pro se* complaints must allege facts which, if true, state a claim for relief as a matter of law. *Martin v. Aubuchon*, 623 F.2d 1282, 1286 (8th Cir. 1980). Federal courts are not required to assume facts that are not alleged, *Stone*, 364 F.3d at 914-15, nor are they required to interpret procedural rules so as to excuse mistakes by those who proceed without counsel. *See McNeil v. United States*, 508 U.S. 106, 113 (1993).

### **The Complaint**

Plaintiff brings this prisoner civil rights action under 42 U.S.C. § 1983 against the St. Louis City Justice Center in its official capacity.<sup>1</sup> Plaintiff states that on January 1, 2021, officers at the Justice Center “didn’t want to give me my legal mail so I can study my case. They kept refusing me my paperwork and telling me they didn’t have it.” At another point in his complaint, plaintiff states that “Ms. Price told me they don’t care about my legal work because of the riot Jan 1st so I was out of luck.”

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<sup>1</sup> For unknown reasons, plaintiff lists as a defendant the Pemiscot County Jail in section I.B. of the complaint form. The address he lists for the Pemiscot County Jail is “St. Louis City Justice Center, 200 S. Tucker Blvd. Saint Louis, MO 63102.” Plaintiff makes no allegations against the Pemiscot County Jail.

For relief, plaintiff seeks \$250,000 because he could not study his case and for “stress, depression, and not knowing who had my legal work.”

### **Discussion**

Plaintiff’s complaint is subject to dismissal on initial review pursuant to 28 U.S.C. § 1915(e)(2). Plaintiff names as the only defendant the St. Louis City Justice Center. The St. Louis City Justice Center is not a legal entity amenable to suit. *See Owens v. Scott Cty. Jail*, 328 F.3d 1026, 1027 (8th Cir. 2003); *see also Ketchum v. City of West Memphis, Ark.*, 974 F.2d 81, 82 (8th Cir. 1992) (stating that “departments or subdivisions” of local government are not “juridical entities suable as such”); *De La Garza v. Kandiyohi Cty. Jail*, 18 F. App’x 436, 437 (8th Cir. 2001) (affirming district court dismissal of county jail and sheriff’s department as parties because they are not suable entities). Because plaintiff cannot sue the St. Louis City Justice Center, his complaint is subject to dismissal.

Liberally construed, plaintiff might be able to state a plausible claim against particular prison officials for violating his constitutional rights to receive legal mail or to access courts. Plaintiff’s allegations are not clear as to whether he was intentionally prohibited from receiving legal mail by any particular official. Because plaintiff is proceeding pro se, the Court will allow him to file an amended complaint. Plaintiff is advised that the amended complaint will replace the original and the amended complaint. *See In re Wireless Tele. Fed. Cost Recovery Fees Litig.*, 396 F.3d 922, 928 (8th Cir. 2005). The Court will mail to plaintiff a form Prisoner Civil Rights Complaint. In the “Caption” section of the complaint form, plaintiff should write the name of the person he intends to sue. Plaintiff must avoid naming anyone as a defendant unless that person is directly related to his claim. Plaintiff must also specify the capacity in which he

intends to sue the defendant. The failure to sue a defendant in his or her individual capacity may result in the dismissal of that defendant.

In the “Statement of Claim” section, plaintiff should begin by writing the defendant’s name. In separate, numbered paragraphs under that name, plaintiff should set forth a short and plain statement of the facts that support his claim or claims against that defendant. *See* Fed. R. Civ. P. 8(a). Each statement must be simple, concise, and direct. *See id.* It is important that plaintiff allege facts explaining how the defendant was personally involved in or directly responsible for harming him. *See Madewell v. Roberts*, 909 F.2d 1203, 1208 (8th Cir. 1990). Plaintiff must explain the role of the defendant, so that the defendant will have notice of what he or she is accused of doing or failing to do. *See Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 848 (8th Cir. 2014) (stating that the essential function of a complaint “is to give the opposing party fair notice of the nature and basis or grounds for a claim.”).

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff’s application to proceed in district court without prepaying fees or costs is **GRANTED**. [ECF No. 5]

**IT IS FURTHER ORDERED** that, within twenty-one (21) days of the date of this order, plaintiff must pay an initial filing fee of \$1.00. Plaintiff is instructed to make his remittance payable to “Clerk, United States District Court,” and to include upon it: (1) his name; (2) his prison registration number; (3) this case number; and (4) the statement that the remittance is for an original proceeding.

**IT IS FURTHER ORDERED** that within twenty-one (21) days of the date of this order, plaintiff shall submit an amended complaint in accordance with the instructions set forth in this order.

**IT IS FURTHER ORDERED** that the Clerk of Court shall mail to plaintiff a blank Prisoner Civil Rights Complaint form.

**Plaintiff's failure to timely comply with this order may result in the dismissal of this action, without prejudice and without further notice.**

Dated this 21st day of October, 2021.

/s/ Noelle C. Collins  
NOELLE C. COLLINS  
UNITED STATES MAGISTRATE JUDGE